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U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

RCE/1648 #  
JFW

## REQUEST FOR CONTINUED EXAMINATION (RCE) TRANSMITTAL

Subsection (b) of 35 U.S.C. § 132, effective on May 29, 2000, provides for continued examination of an utility or plant application filed on or after June 8, 1995.  
See The American Inventors Protection Act of 1999 (AIPA).

Application Number	09/458,813
Filing Date	December 10, 1999
Examiner Name	S. Brown
First Named Inventor	Brian R. Murphy
Group Art Unit	1648
Attorney Docket Number	2303-3-3

This is a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114 of the above-identified application.

**NOTE:** 37 C.F.R. § 1.114 is effective on May 29, 2000. If the above-identified application was filed prior to May 29, 2000, applicant may wish to consider filing a continued prosecution application (CPA) under 37 C.F.R. § 1.53 (d) (PTO/SB/29) instead of a RCE to be eligible for the patent term adjustment provisions of the AIPA. See Changes to Application Examination and Provisional Application Practice, Interim Rule, 65 Fed. Reg. 14865 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47 (Apr. 11, 2000), which established RCE practice.

1. **Submission required under 37 C.F.R. § 1.114**

- a. ☐ Previously submitted
- i. ☐ Consider the amendment(s)/reply under 37 C.F.R. § 1.116 previously filed on \_\_\_\_\_  
(Any unentered amendment(s) referred to above will be entered).
- ii. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on \_\_\_\_\_
- iii. ☐ Other \_\_\_\_\_
- b. **Enclosed**
- i. ☒ Response
- ii. ☐ Affidavit(s)/Declaration(s)
- iii. ☐ Information Disclosure Statement (IDS)
- iv. ☐ Other \_\_\_\_\_

2. **Miscellaneous**

- a. ☐ Suspension of action on the above-identified application is requested under 37 C.F.R. § 1.103(c) for a period of \_\_\_\_\_ months. (Period of suspension shall not exceed 3 months; Fee under 37 C.F.R. § 1.17(i) required)
- b. ☐ Other \_\_\_\_\_

3. **Fees** The RCE fee under 37 C.F.R. § 1.17(e) is required by 37 C.F.R. § 1.114 when the RCE is filed.

- a. ☒ The Director is hereby authorized to charge any deficiency fees or credit any overpayments, to Deposit Account No. 07-1897
- i. ☐ RCE fee required under 37 C.F.R. § 1.17(e)
- ii. ☐ Extension of time fee (37 C.F.R. §§ 1.136 and 1.17)
- iii. ☐ Other \_\_\_\_\_
- b. ☒ Check in the amount of \$ 770.00 enclosed
- c. ☐ Payment by credit card (Form PTO-2038 enclosed)

### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Name (Print /Type)	Jeffrey J. King	Registration No. (Attorney/Agent)	38,515
Signature		Date	June 8, 2004

### CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450:

Name (Print /Type)	Donna Zimmerman	Date	June 8, 2004
Signature			

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DOCKET NO.: 2303-3-3

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:  
Brian R. Murphy et al.

Confirmation No. 9312

Serial No.: 09/458,813

Group Art Unit: 1648

Filing Date: December 10, 1999

Examiner: S. Brown

**For: USE OF RECOMBINANT LIVE-ATTENUATED PARAINFLUENZA  
VIRUS (PIV) AS A VECTOR TO PROTECT AGAINST DISEASE CAUSED BY  
PIV AND RESPIRATORY SYNCYTIAL VIRUS (RSV)**

DATE OF DEPOSIT: June 8, 2004

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TYPED NAME: Donna Zimmerman

Mail Stop RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**RESPONSE**

Further to the Notice of Appeal received by the Office on March 8, 2004, and responsive to the Office Action dated October 2, 2004, entry of this submission and consideration of the accompanying remarks is earnestly solicited.

A current listing of claims begin on page 2 of this paper.

Remarks/Arguments begin on page 10 of this paper.

A Petition for (1) one month extension, Request for Continued Examination, and appropriate fees are filed herewith.